

DISTRICT OF NEW JERSEY
UNITED STATES BANKRUPTCY COURT

Caption in Compliance with D.N.J. LBR 9004-1(b)

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Corporation

In Re:

THOMAS P MCCABE AKA THOMAS
MCCABE, JR.

ADRIANA M MCCABE AKA
ADRIANA BARBARANO

Debtor(s).



Order Filed on February 10, 2021
by Clerk
U.S. Bankruptcy Court
District of New Jersey

Case No.: 19-32377-aba

Hearing Date: February 16, 2021

Judge: Andrew B. Altenburg, Jr.

Chapter: 13

Recommended Local Form: ☒ Followed ☐ Modified

ORDER RESOLVING MOTION TO VACATE STAY AND/OR MOTION TO DISMISS WITH CONDITIONS

The relief set forth on the following pages, numbered two (2), three (3) and four (4) is hereby **ORDERED**.

DATED: February 10, 2021


Honorable Andrew B. Altenburg, Jr.
United States Bankruptcy Court

Applicant: Freedom Mortgage Corporation

Applicant's Counsel: GROSS POLOWY, LLC - Lynn T. Nolan, Esq. - 039952011

Debtor's Counsel: LAW OFFICE OF THOMAS DOWEY - Thomas E. Dowey

Property Involved ("Collateral"): 3104 Sunset Avenue, Williamstown, NJ 08094

Relief Sought: ☒ Motion for relief from the automatic stay
☐ Motion to Dismiss
☐ Motion for prospective relief to prevent imposition of automatic stay against the collateral by debtor's future bankruptcy filings

For good cause shown, it is **ORDERED** that Applicant's Motion(s) is (are) resolved, subject to the following conditions:

1. Status of post-petition arrearages:

- ☒ The Debtor is overdue for 10 months, from 04/01/2020 to 01/01/2021.
- ☒ The Debtor is overdue for 8 payments at \$1,619.96 per month.
The Debtor is overdue for 2 payments at \$1,589.46 per month
- ☐ The Debtor is assessed for ____ late charges at ____ per month.
- ☒ Applicant acknowledges suspense funds in the amount of \$1,149.76 received.

Total Arrearages Due \$14,988.84.

2. Debtor must cure all post-petition arrearages, as follows:

- ☒ Immediate payment shall be made in the amount of \$4,500.00, payment shall be made no later than 02/16/2021.
- ☒ Beginning on 03/01/2021, regular monthly mortgage payments shall continue to be made in the amount of \$1,589.46.
- ☐ Beginning on _____, additionally monthly cure payments shall be made in the amount of _____ for _____ months.
- ☒ The amount of \$10,488.84 shall be capitalized in the debtor's Chapter 13 plan. The Debtor's monthly payment to the Chapter 13 Trustee is modified to \$1,118.00 per month for the remaining 46 months.
- ☒ The Secured Creditor may file an Amended/Supplemental Proof of Claim to reflect the amount being capitalized in the debtor's Chapter 13 Plan.

3. Payments to the Secured Creditor shall be made to the following address(es):

☒ Immediate Payment

Freedom Mortgage Corporation
10500 Kincaid
Fishers, IN 46037-9764

☒ Regular Monthly Payment

Freedom Mortgage Corporation
10500 Kincaid
Fishers, IN 46037-9764

☒ Monthly Cure Payment

Freedom Mortgage Corporation
10500 Kincaid
Fishers, IN 46037-9764

4. In the event of Default:

☒ If the Debtor fails to make the immediate payment specified above or fails to make any regular monthly payment or the additional monthly cure payment within (30) day of the date the payments are due, then the Secured Creditor may obtain an Order Vacating the Automatic Stay as to the Collateral by filing, with the Bankruptcy Court, a Certification specifying Debtor's failure to comply with this Order. At the time the Certification is filed with the court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor, and the Debtor's attorney.

☒ In the event the Debtors converts to a Chapter 7 during the pendency of this bankruptcy case, the Debtors shall cure all arrears within ten (10) days from the date of conversion in order to bring the loan contractually current. Should the Debtors fail to bring the loan contractually current, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtors, and Debtors' attorney and the court shall enter an Order granting relief from the Automatic Stay.

☒ This agreed order survives any loan modification agreed to and executed during the instant bankruptcy. If any regular mortgage payment due after the execution of a loan modification is more than thirty (30) days late, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtors, and Debtors' attorney and the court shall enter an Order granting relief from the Automatic Stay.

☒ If the bankruptcy case is dismissed, or if the automatic stay is vacated, the filing of a new bankruptcy case will not act to impose the automatic stay against the Secured Creditor's opportunity to proceed against its collateral without further Order of the Court.

5. Award of Attorneys' Fees:

☒ The Applicant is awarded attorney's fees of \$350.00 and costs of \$188.00.

The Fees and costs are payable:

☒ Through the Chapter 13 plan. These fees/costs shall be set up as a separate claim to be paid by the Standing Trustee and shall be paid as an administrative claim.

☐ To the Secured Creditor within ____ days.

☐ Attorney's Fees are not awarded.